IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15157 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAY AMBICA CO OP HOUSING LTD. THROUGH CHAIRMAN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 15157 of 2004

MR SHITAL R PATEL for Petitioner No. 1

Mr. Mukesh Patel, AGP for Respondent No. 1

MR GUNVANT R THAKAR for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 20/01/2005

ORAL JUDGEMENT

Rule. Shri Mukesh A. Patel, learned AGP waives service of Rule on behalf of respondent No.1. Shri G.R. Thakar, learned advocate waives service of Rule on behalf of respondent No.2.

2. In this petition under ARticles 226/227 of the Constitution of India, the petitioner original-respondent has challenged the legality and validity of the order passed by the Gujarat Revenue Tribunal {"GRT"} dated 25.10.2004 in Review Application No. TEN.CA 11/2004 as well as the judgment and order passed by the GRT dated 5.5.2004 in TEN.BA Case No. 274/2003.

3. Number of submissions have been made on behalf of the parties on merits, however, in view of the fact that the judgment and order came to be passed by the GRT dated 5.5.2004 in Revision Application No. TEN.BA. 274/2003, without hearing the petitioner and the respondent No.2, the petition is not decided on merits. Considering the aforesaid fact, in fact the GRT ought to have allowed the Review Application TEN.CA 11/2004 however the GRT has dismissed the said Review Application.

4, Considering the fact that by judgment and order dated 5.5.2004 the GRT has restored the order passed by the Mamlatdar & ALT dated 24.10.2002 by quashing and setting aside the order passed by the Deputy Collector (Land Reforms) Appeals, Gandhinagar dated 9.6.2003, which was in favour of the petitioner, the impugned judgment and order is in breach of principles of natural justice. Hence, the impugned judgment and order passed by the GRT dated 5.5.2005 in Revision Application No. TEN.BA. 274/2003 is hereby quashed and set aside. The order passed by the GRT dated 25.10.2004 in dismissing the Review Application No. TEN.CA 11/2004 is also hereby quashed and set aside. The matter is remanded to the GRT for deciding and disposing the main Revision Application No. TEN.BA 274/2003 on merits. In the facts and circumstances, the GRT is directed to decide and dispose of the Revision Application No. TEN.BA 274/2003 as early as possible and preferably within the period of three months from the date of receipt of this order. It is also further ordered that until revision is disposed of, on remand, finally, status-quo, in respect to the land is directed to be maintained. Rule is made absolute with no order as to costs.

[M.R. Shah, J.]

rmr.